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Attorneys for Plaintiff Amy Rice

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

AMY RICE,	)	Case No.: 5:17-cv-6992-HRL
	)	
Plaintiff,	)	<b>FIRST AMENDED ERISA</b>
	)	<b>COMPLAINT</b>
v.	)	
CISCO SYSTEMS, INC.,	)	
	)	
Defendant.	)	

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**Parties**

1. Plaintiff resides in Cumming, Georgia and brings this action pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 *et. seq.* (“ERISA”).

2. Plaintiff’s husband works for Cisco Systems Inc., a California corporation headquartered in San Jose, California. As a benefit of his employment, Plaintiff’s husband had health benefits under an ERISA-regulated self-funded employee welfare benefit plan as defined in 29 U.S.C. §1002(1).

3. Plaintiff was a participant in the plan established by Cisco Systems, Inc. within the meaning of 29 U.S.C. §1002(7) and is authorized to bring this action to enforce her rights and recover benefits due under the Plan pursuant to 29 U.S.C. §1132(a)(1)(B).

5. This Court has jurisdiction pursuant to 29 U.S.C. §1132(e) and 28 U.S.C. §1331.

## Facts

1           10. On October 7, 2016, Cigna upheld its decision on appeal on the ground  
2 that the treatment was experimental.

3           11. On November 22, 2016, Plaintiff submitted a second level appeal.

4           12. On December 9, 2016, Cigna denied the second level appeal.

5           13. Plaintiff requested an external appeal, and a fourth and fifth level appeal,  
6 all of which were denied.

7  
8                                   **Claim for Denial of Benefits**

9           14. Plaintiff has exhausted her administrative remedies and fulfilled all other  
10 prerequisites to filing an action to recover benefits under 29 U.S.C. §1132(a) (1) (B).

11           15. As a result of the wrongful denial by the Plan, Plaintiff was forced to pay  
12 out of pocket for the medically necessary HCST for her condition in the amount of  
13 \$125,000 by withdrawing from her retirement accounts, incurring fees and tax  
14 penalties. The treatment constituted covered services for which payment was due by  
15 the Plan. The treatment was not experimental. Nearly one hundred (100) plans,  
16 including some administered by Cigna, have approved HCST treatment for patients  
17 like Plaintiff with severe relapsing remitting multiple sclerosis.

18           16. Plaintiff is entitled to reimbursement for the amount she paid for the  
19 treatment she requested under the Plan as well as her costs of borrowing the money to  
20 pay for that treatment.

21  
22                                   **Claim for Costs and Attorneys' Fees**

23           17. As a result of Defendant's wrongful denial of benefits, Plaintiff was  
24 forced to retain an attorney and has incurred court costs and attorney fees.

25           18. Plaintiff is entitled to recover her court costs and reasonable attorneys'  
26 fees pursuant to 29 U.S.C. §1132(g).

**Prayer for Relief**

WHEREFORE, Plaintiff requests judgment against Defendant:

1. For coverage for HCST treatment wrongfully denied, in the principal amount proven at trial, as well as the costs of borrowing the money to pay for that treatment;
2. For costs and reasonable attorneys' fees incurred;
3. For post judgment interest on the foregoing amounts; and
4. For such other relief as the Court deems just and proper.

Dated: December 8, 2017

**KANTOR & KANTOR, LLP**  
LISA S. KANTOR

By: /s/ Lisa S. Kantor  
Lisa S. Kantor  
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Amy Rice

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